

Andrew Meogen - DOJ

affirmed - 10 am

EPA Region 5 Records Ctr.

275640

Skinner Institutional  
controls

10/20/02

Fed Act: Agency cannot take title to land w/out specific grant. Only grant is in CERCLA 104(j), which is not applicable at Skinner because remedial action has already taken place.

Equitable Servitude: At Skinner we need to respect future land owners in use.

City of Petersburg: said this interest can run on the land, but it's not a property interest, it's a contract right.

But EPA  
can be a 3rd party beneficiary  
because this is a contractual right  
PRPs claim for this reason EPA  
can be the grantee, but DOJ  
has problems w/this because it's  
like an easement or an interest  
in land.

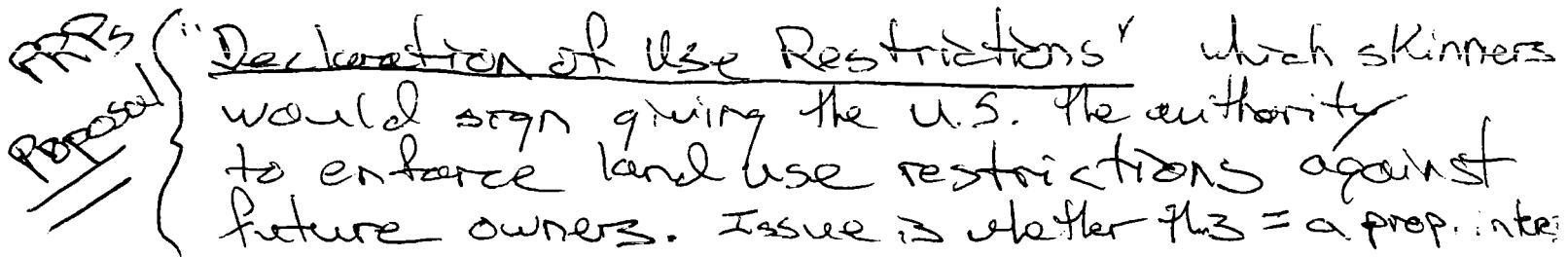
This would allow us to do the enforcement. \* so we must find someone to act as grantee - either PRPs or Ohio. During RD/RA negotiations the PRPs ~~represented~~ they would act as grantee. Ohio has said it will not act as grantee.

- \* Problem is CD does not require PRPs to act as grantee.  
 In the alternative we can negotiate the cost split on cost recovery, but the split is already set on all the settlements to date:

$$\begin{aligned} \text{US} &= \$187 \text{ K} \\ \text{PRPs} &= \$113 \text{ K} \end{aligned} \quad \left. \begin{array}{l} \text{from} \\ \text{clerk's.} \end{array} \right.$$

For Aerona the current split is 50/50 which is still open to negotiation.

- \* Another leverage point is to withhold certification of completion until deed restrictions are in place → But if there's no requirement to place deed restrictions on land what is the basis for withholding certification?


 PRPs  
Proposal } "Declaration of Use Restrictions" which Skinner would sign giving the U.S. the authority to enforce land use restrictions against future owners. Issue is whether this = a prop. interest